

**IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
WEST VIRGINIA, AT MARTINSBURG**

DALE BERNARD BEARD, JR.,

Plaintiff,

v.

**CIVIL ACTION NO.: 3:23-CV-193
HONORABLE GINA GROH**

**DANIEL E. SMITH, individually, and
ADAM ALBAUGH, individually,**

Defendants.

**DEFENDANTS' MOTION IN LIMINE TO EXCLUDE EVIDENCE, TESTIMONY, OR
ARGUMENT BEFORE THE JURY REGARDING WHETHER DEFENDANTS HAVE
LIABILITY COVERAGE**

COME NOW the Defendants, Daniel E. Smith and Adam Albaugh, by counsel, Keith C. Gamble, and the law firm of Pullin, Fowler, Flanagan, Brown & Poe, PLLC, pursuant to Rule 104 of the *Federal Rules of Evidence*, and respectfully move this Honorable Court for a ruling *in limine* to exclude evidence, testimony, or argument before the jury regarding whether Defendants have liability coverage. In support of their *Motion*, Defendants state as follows:

Rule 411 of the *Federal Rules of Evidence* provides that “[e]vidence that a person was or was not insured against liability is not admissible to prove whether the person acted negligently or otherwise wrongfully.” FED. R. EVID. 411. Here, Defendants move *in limine* to request an order preventing Plaintiff from presenting evidence, testimony, or argument before the jury regarding whether there is a liability insurance coverage applicable to this matter.

WHEREFORE, based on the foregoing, and pursuant to FED. R. EVID. 104 and 411, Defendants respectfully request this Court grant the Motion *in Limine* and enter an Order exclude

evidence, testimony, or argument before the jury regarding whether Defendants have liability coverage, and for any further relief the Court deems just and proper.

**Defendants, Daniel E. Smith and Adam
Albaugh,
By counsel:**

/s/ Keith C. Gamble

Keith C. Gamble, WV State Bar No. 7971

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CERTIFICATE OF SERVICE

The undersigned, counsel of record for Defendants, does hereby certify on this 8th day of November 2024, that a true copy of the foregoing “*Defendants’ Motion In Limine To Exclude Evidence, Testimony, Or Argument Before The Jury Regarding Whether Defendants Have Liability Coverage*” was filed and served via the CM/ECF filing system, as follows:

John H. Bryan, Esquire
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/s/ Keith C. Gamble
Keith C. Gamble, WV State Bar No. 7971

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